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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**ERICA SIMMONS, on behalf of  
herself and all others similarly  
situated,**

**Plaintiff,**

**v.**

**PERFORMANT  
TECHNOLOGIES, INC.,**

**Defendant.**

**Case No.: 2:15-cv-05804-FMO-AJW  
JOINT STIPULATION TO DISMISS**

NOW COME THE PARTIES by and through their attorneys to respectfully move this Honorable Court to dismiss this matter with prejudice to Plaintiff, and without prejudice to the putative class, pursuant to Federal Rules of Civil Procedure 41(a)(1)(A)(ii). The parties have conducted extensive discovery surrounding Plaintiff's allegations of revocation of her consent to be called using an automatic telephone dialing system ("ATDS"), pursuant to the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §227, et seq. A detailed review of

Defendant's records reveal that this particular matter is not fit for class certification.

Each party shall bear their own costs and attorney fees. A proposed order has been concurrently submitted to this Court via email.

Respectfully submitted this 16<sup>th</sup> day of March, 2016

By: s/Todd M. Friedman, Esq.  
TODD M. FRIEDMAN  
Attorney for Plaintiff

/s/ CHARLES R. MESSER, ESQ  
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Filed electronically on this 16<sup>th</sup> day of March, 2016, with:

United States District Court CM/ECF system

Notification sent electronically via the Court's ECF system to:

Honorable Judge Fernando M. Olguin  
United States District Court  
Central District of California

Charles R Messer  
Carlson and Messer LLP

Jeanne L Zimmer  
Carlson and Messer LLP

June Grace Felipe  
Carlson and Messer LLP

This 16<sup>th</sup> day of March, 2016.  
s/Todd M. Friedman  
TODD M. FRIEDMAN